Business Series
IR56

Inland Revenue

Employed or self-employed?

A guide for tax and National Insurance

This leaflet is to help you find out if you are employed or self-employed.

Your employment status affects the tax and National Insurance you have to pay, so it is important you know which heading your job falls under.

The law doesn't define 'employment' and 'self-employment'. You or your employer can't simply call your job 'employment'or 'self-employment'. The questions on pages 3 and 4 should help you to decide your employment status, although they are only a brief guide and don't cover every situation. It is not possible to list all the factors which may be relevant or provide a precise guide to their relative importance. For each engagement the whole picture needs to be looked at in the light of all the facts.

If you are unsure, or you have any questions, ask at your local Inland Revenue Enquiry Centre or Tax Office, or Inland Revenue (NI Contributions) Office. Each office has someone responsible for all enquiries and decisions about employment status.

In most cases it will be obvious whether you are employed or self-employed. For example, if you work for a company on a production line in its factory, you are almost certainly employed. It may be clear that you are an employee because you have been given a written statement of your employment terms, or you may be a member of a pension scheme open only to employees.

You are self-employed if you are in business on your own, for example if you run your own shop, or are buying and selling goods, or providing services direct to the public from your own office premises.

However, sometimes it isn't so easy to decide. You'll need to look at your job as a whole, taking into account all the conditions you work under in the light of the guidelines below.

As well as applying for tax and National Insurance purposes, these considerations may apply in employment law matters such as unfair dismissal and redundancy. However, other considerations may also be relevant in these areas, so your position under employment law will not necessarily be the same as under tax and National Insurance law. For employment protection purposes the industrial tribunals, which are independent judicial bodies, will decide whether someone who makes a complaint is employed or self-employed.

Bear in mind that because you are self-employed in one job doesn't necessarily mean you will be in your next job.

Employed or self-employed?

Employed

If you can answer 'Yes' to the following questions, you are probably **employed**.

- Do you yourself have to do the work rather than hire someone else to do it for you?
- Can someone tell you at any time what to do or when and how to do it?
- Are you paid by the hour, week, or month? Can you get overtime pay?
- Do you work set hours, or a given number of hours a week or month?
- Do you work at the premises of the person you work for, or at a place or places he or she decides?

Self-employed

If you can answer 'Yes' to the following questions, it will usually mean you are **self-employed**.

- Do you have the final say in how the business is run?
- Do you risk your own money in the business?
- Are you responsible for meeting the losses as well as taking the profits?
- Do you provide the main items of equipment you need to do your job, not just the small tools many employees provide for themselves?

- Are you free to hire other people on your own terms to do the work you have taken on? Do you pay them out of your own pocket?

- Do you have to correct unsatisfactory work in your own time and at your own expense?

Special Rules

These may apply to certain jobs or positions. If for instance

- your work is arranged through an agency
- you are a company director or the secretary of a club or the holder of any other office

you will normally have to pay tax and National Insurance contributions as if you are an employee.

There are also special rules which apply to National Insurance contributions but not tax. These may affect you if

- you are an office cleaner
- you are a minister of religion
- you are an examiner, moderator or invigilator of an examining board
- you are a school teacher, lecturer or instructor
- you work for someone in your family

Ask at your local Inland Revenue (NI Contributions) Office for advice.

Casual, short term, temporary or part-time working

The same considerations to determine employment status will apply even if you work part-time or for a short period. Unless you can answer 'Yes' to the self-employed questions on pages 3 and 4, you will normally be an employee.

If

- you have more than one job, or
- you work for a number of different people for a few days or weeks at a time

you will need to answer the questions on pages 3 and 4 for **each** job. Remember, because you are self-employed in one job, it doesn't necessarily mean you will be self-employed in any other job you take on. Where, however, you provide services to many different persons and do not work regularly for one person to the exclusion of others, this may be relevant to the decision whether your work for each is as an employee, or a self-employed person.

You can even be employed and self-employed at the same time in different jobs. For example, you could be employed as a part-time shop assistant and spend the rest of your time running your own business from home. You could work full time in a factory as an employee, and run a part time business in the evening or weekends. You may have a number of short term or part-time activities, some of which may amount to employments and others to self employment. It all depends on the facts.

What about my tax and National Insurance?

Employed

It will normally be your employer's responsibility to deduct tax and National Insurance from your pay under PAYE and pay it over to the Inland Revenue. The Inland Revenue leaflet IR34 'PAYE - Pay As You Earn' explains this in more detail.

Self-employed

You are responsible for your own tax and National Insurance. This means

- telling your Tax Office and Inland Revenue (NI Contributions) Office if you haven't already done so, that you are in business
- telling your Tax Office about all your income. Once you have told the Tax Office that you are in business, they will normally send you a Tax Return each year to enable you to do this. However, you must still tell the Inland Revenue about income you have in any tax year, even if the Tax Office doesn't send you a Return for that year
- paying the tax
- paying Class 2 National Insurance contributions. You will be sent a bill every 13 weeks, in arrears unless you choose to pay monthly by direct debit

- paying Class 4 National Insurance contributions- see Inland Revenue leaflet IR24 'Class 4 National Insurance Contributions' or leaflet CA03 [NP18] 'National Insurance for Self-Employed People Class 2 and 4' for more information.

Being self-employed also affects

- the social security benefits you can claim, such as unemployment benefit

- other rights, for example those under employment legislation, such as the right to maternity leave, or to a redundancy payment, notice rights and so on

- your liability to the public for the work you do for them.

If you would like to know more about how the tax and National Insurance systems affect the self-employed, there are a number of leaflets to help you. These are listed on the inside front cover of this leaflet.

Still not sure?

If you are not sure whether you are employed or self-employed, or if you have any other questions, please get in touch with your local Inland Revenue Enquiry Centre, Tax Office or Inland Revenue (NI Contributions) Office of the DSS for advice. They can give you a written decision about your employment status for tax and National Insurance purposes. If you can't agree with their decision, you can appeal against it. Leaflet IR37 'Appeals against tax' gives you more information about how to appeal against an Inland Revenue decision.

If you are not sure whether employment protection rights apply to you, an industrial tribunal would decide whether you were employed or self-employed if you complained that these rights had been infringed.

If you are paying someone to work for you and are not sure if you are the employer responsible for deducting PAYE/National Insurance from his or her pay, your local Tax Enquiry Centre, Tax Office or Inland Revenue (NI Contributions) Office can also advise you. You may also find the Inland Revenue leaflet IR53 'Thinking of taking someone on?' helpful.

The Department of Social Security and the Inland Revenue both produce a wide range of free leaflets each designed to explain a different aspect of the tax and National Insurance systems in plain English. Some you might find useful are listed below.

Available in Tax Offices and Inland Revenue Enquiry Centres and Inland Revenue (NI Contributions) Office.

IR24 - 'Class 4 National Insurance contributions'
IR28 - 'Starting in business'
IR34 - 'PAYE - Pay As You Earn'
IR37 - 'Appeals against tax'
IR53 - 'Thinking of taking someone on?'
IR57 - 'Thinking of working for yourself?'
IR104 - 'Simple tax accounts'
IR105 - 'How your profits are taxed'
IR120 - 'You and the Inland Revenue'
IR148 - 'Guidance notes for contractors in the construction industry. Employed or self-employed?'

CA01 - [NP28] 'National Insurance for Employees'
CA03 - [NP18] 'National Insurance for Self-Employed People Class 2 and 4'
CA25 - [NI192] 'Agencies/Agency Supplied Workers'
CA26 - [NI222] 'National Insurance for Examiners, Teachers, Lecturers'
CA62 - 'Unhappy with our service?'
CA64 - 'Dissatisfied with our ruling?
FB30 - 'Self Employed?'

The leaflet IR120 'You and the Inland Revenue' tells you more about the standard of service you can expect from the Inland Revenue. It also tells you the steps you can take if you want to make any comments on the service you receive, or complain about the way your tax affairs have been handled.

Leaflet CA62 'Unhappy with our service?' tells you more about the standard of service you can expect from the Inland Revenue (NI Contributions) Office. It also explains how you can complain if you are unhappy with the service you have received.

You can obtain Inland Revenue (NI Contributions) Office leaflets from your local Office. Offices are open to the public from 9.30am to 3.30pm, Monday to Friday.

The IR List 'Catalogue of leaflets and booklets' gives information about all the publications you can get from Inland Revenue Enquiry Centres and Tax Offices. Addresses are in your local phone book under 'Inland Revenue'. Most offices are open to the public from 9.30am to 4.00pm, Monday to Friday, and some are also open outside these hours.

Your local library or Citizens' Advice Bureau may also have copies of Inland Revenue leaflets.

These notes are for guidance only and reflect the tax and National Insurance position at the time of writing. They do not affect your right of appeal about your own tax or National Insurance.

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